

**MINUTES**

**OF THE**

**APRIL 18, 2019 REGULAR BUSINESS MEETING**



**OF THE**

**OKLAHOMA WORKERS' COMPENSATION COMMISSION**

## **STATEMENT OF OKLAHOMA OPEN MEETING ACT COMPLIANCE**

Notice of this Regular Meeting was filed with the Secretary of State's office on Monday, November 15, 2018 at 4:02 p.m., in compliance with the Open Meeting Act.

The agenda was posted at least 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted on the Commission website and at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, the Commission's principal office.

### **MINUTES OF THE APRIL 18, 2019 REGULAR BUSINESS MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION**

The members of the Oklahoma Workers' Compensation Commission met at 1915 N. Stiles Ave., 2<sup>nd</sup> floor, Oklahoma City, Oklahoma, on April 18, 2019.

Members present: Chairman Mark Liotta, Commissioner Jordan Russell, and Commissioner Megan Tilly.

Others Present: Executive Director Hopper Smith, WCC; Sarah Greenwalt, WCC; Dana Esparza, WCC; Collin Fowler, WCC; Eric Russell, WCC; Andrea Delling, WCC; and James Lawson, WCC.

Chairman Liotta expressed appreciation for those in attendance. After the roll was taken, he announced the presence of a quorum. The meeting was called to order at approximately 1:30 p.m.

#### **1. Approval of Minutes**

Chairman Liotta presented the minutes of the March 7, 2019; March 11, 2019; March 14, 2019; March 29, 2019; and April 4, 2019 public meetings for approval.

**Motion:** Commissioner Russell moved to approve the minutes of the March 7, 2019; March 11, 2019; March 14, 2019; March 29, 2019; and April 4, 2019 public meeting minutes.

**Second:** Commissioner Tilly

Those voting aye: Chairman Liotta, Commissioner Russell and Commissioner Tilly

***The motion carried.***

**2. Consent Agenda for Travel Vouchers Currently Outstanding**

85A O.S. § 23 states that any Commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission. In accordance with this section, the Commission considered a vote to approve the currently outstanding vouchers.

**Motion:** Commissioner Tilly moved to approve the Consent Agenda as proposed.

**Second:** Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell and Commissioner Tilly

**The motion carried.**

**3. Discussion and Consideration of Releasing the Security Deposit of Enovation Controls LLC, a Former Own Risk Employer, Permit #17553**

Pursuant to Commission Rule 810:25-9-19, a security deposit posted with the Commission as required by Commission Rule 810:25-9-4 must remain in place, at its existing amount, for two years after an individual own risk employer voluntarily leaves self-insurance. A security deposit may be reduced or released at the Commission's discretion after the two-year waiting period upon application by the employer and submission of current financial statements and workers' compensation loss runs. The Commission considered releasing the security deposit of Enovation Controls LLC.

James Lawson was recognized, reported, gave his recommendation and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve releasing the security deposit of Enovation Controls LLC as proposed.

**Second:** Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell and Commissioner Tilly

**The motion carried.**

**4. Legislative Update Report**

Commissioner Russell gave a report on legislative meetings and legislation affecting the Commission. This report was presented for informational purposes only.

There was no action taken on this agenda item.

**5. Discussion and Consideration of Current Commission Policies**

The Commission discussed and considered adopting and/or modifying the following policy:

a) WCC-2 — Travel Policy

Collin Fowler was recognized, reported, and responded to questions of the Commissioners.

***Motion:*** Commissioner Tilly moved to continue this agenda item to the next regular business meeting.

***Second:*** Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly

***The motion carried.***

**6. Discussion and Consideration to Request an Audit of the Commission by the Office of the State Auditor and Inspector**

The Commission considered requesting a performance audit in accordance with 74 O.S. § 213.2. The audit would provide the Commission with an independent evaluation of the performance, management, and expenditures of the Commission.

Sarah Greenwalt was recognized, reported, and responded to questions of the Commissioners.

***Motion:*** Commissioner Tilly moved to continue this agenda item to the next regular business meeting.

***Second:*** Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly

***The motion carried.***

## **AGENCY CONTRACT RENEWALS**

### **7. Discussion and Consideration of Proposed Lease for 3rd Floor Office Space for Fiscal Year 2020**

The Commission discussed and considered renewing a lease with the Office of Management and Enterprise Services (OMES) for the 3rd Floor office space in the Denver Davison Building for FY-2020 in the amount of \$84,948.00.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to renew the lease with the Office of Management and Enterprise Services (OMES) for the 3rd Floor office space in the Denver Davison Building, subject to the Secretary of State's approval, as presented.

**Second:** Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly

**The motion carried.**

### **8. Discussion and Consideration of Proposed Lease for Tulsa Office Space for Fiscal Year 2020**

The Commission discussed and considered renewing a lease with the Office of Management and Enterprise Services (OMES) for the Tulsa office space in the Kerr State Office Building for FY-2020 in the amount of \$46,699.56.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve the lease with OMES for the Tulsa office space, subject to the Secretary of State's approval, as presented.

**Second:** Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

*The motion carried.*

**9. Discussion and Consideration of Renewal of a Contract between the Commission and Lowery and Associates for Court Reporting Services for Fiscal Year 2020**

The Commission discussed and considered renewing a contract between the Commission and Lowery and Associates for court reporting services for FY-2020. The cost of the contract is \$61,225.00.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve the lease with Lowery and Associates, subject to the Secretary of State's approval, as presented.

**Second:** Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

*The motion carried.*

**10. Discussion and Consideration of Renewal of the Shared Services Agreement Between the Commission and the Office of Management Enterprise Services for Fiscal Year 2020**

The Commission discussed and considered renewing the Shared Services Agreement with the Office of Management Enterprise Services for FY-2020, encumbering funds in the amount of \$535,135.38. This Agreement includes Risk Management, Information Services, Human Capital Management, and Central Accounting and Reporting. The Agreement signed in 9/20/16 continues until such time as modified or terminated.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to encumber funds for payment of the Shared Services Agreement with the Office of Management Enterprise Services, subject to the Secretary of State's approval, as presented.

**Second:** Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

*The motion carried.*

**11. Discussion and Consideration of Renewal of Self-insurance Guaranty Fund Board Contract for Fiscal Year 2020**

Under 85A O.S., § 99 the Commission may contract with an appropriate state governmental entity, as approved by the Commission, for claims administration, including processing, investigating, and paying valid claims against an impaired self-insurer with the monies from the released security.

The Commission discussed and considered approving a one-year renewal of the contract with the Self-insurance Guaranty Fund Board in the amount of \$30,880.00 for workers' compensation claims administration services dealing with the security posted by a self-insurer and released for the payment of the self-insurer's workers' compensation obligations.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to renew the contract with the Self-insurance Guaranty Fund Board, subject to the Secretary of State's approval, as presented.

**Second:** Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

*The motion carried.*

**12. Discussion and Consideration of Renewing the Contract between the Commission and - Insurance Services Office (ISO) for Electronic Data Interchange (EDI) Services for Fiscal Year 2020**

The Commission discussed and considered approving the continuation of its contract with ISO for EDI maintenance services through VERISK for FY-2020. The cost of the contract is \$63,500.00.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve the continuation of its contract with ISO for EDI maintenance services through VERISK, subject to the Secretary of State's approval, as presented.

**Second:** Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**The motion carried.**

**13. Discussion and Consideration of Renewal of a Contract Via Statewide Contract SW1046A Between the Commission and Westlaw for Online Legal Library Services for Fiscal Year 2020**

The Commission discussed and considered approving renewal of its subscription pursuant to a statewide contract for Westlaw Law Library Services for FY-2020. The cost of the contract is \$18,953.16.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve the renewal of the subscription pursuant to a statewide contract for Westlaw Law Library Services,.

**Second:** Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**The motion carried.**

**14. Discussion and Consideration of Continuing a Contract for Fiscal Year 2020 Between the Commission and Objectstream for Development of a New Case Management System (Case OK)**

The Commission discussed and considered renewing the contract between the Commission and Objectstream for deployment and completion of Phase 1 of a new case management system (Case OK) for FY-2020. The cost of the contract is \$915,000.00.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Tilly moved to approve the renewal of the contract between the Commission and Objectstream for deployment and completion of Phase 1 of a new case management system (Case OK), subject to the Secretary of State's approval, as presented.

**Second:** Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**The motion carried.**

**15. Discussion and Consideration of Renewing the Memorandum of Understanding (MOU) between the Commission and Self-Insurance Guaranty Fund (SIGF) Board for Fiscal Year 2020**

The MOU establishes the services performed by the Commission's Chief Financial Officer for the SIGF Board and the Board's payment for the Commission's costs in providing such services. The Commission discussed and considered approving a one-year renewal of the MOU with the SIGF Board for FY-2020 in the amount of \$5,000.00.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to approve a one-year renewal of the MOU with the SIGF Board as presented.

**Second:** Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**The motion carried.**

**16. Discussion and Consideration of Proposed Fiscal Year 2020 Contract Between the Commission and the Office of the Oklahoma Attorney General**

The Commission discussed and considered a proposed contract engaging the legal services of the Office of the Oklahoma Attorney General for FY-2020. The cost of the contract is \$52,749.96.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Tilly moved to approve the contract engaging the legal services of the Office of the Oklahoma Attorney General, subject to the Secretary of State's approval, as presented.

**Second:** Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**The motion carried.**

**17. Discussion and Consideration of Continuation of a Contract for Fiscal Year 2020 Between the Commission and the Office of Management Enterprise Services/ISD**

The Commission discussed and considered renewal of its contract with the Office of Management Enterprise Services/ISD for IT project oversight during the development and deployment of the Case OK System through Objectstream for FY-2020. The cost of the contract is \$32,000.00.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Tilly moved to approve renewal of the contract with the Office of Management Enterprise Services/ISD for IT project oversight during the development and deployment of the Case OK System through Objectstream, subject to the Secretary of State's approval, as presented.

**Second:** Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**The motion carried.**

**18. Discussion and Consideration of Proposed Fiscal Year 2020 Contract Between the Commission and Standleys**

The Commission discussed and considered renewal of a contract for services of the 3<sup>rd</sup> floor color copier for FY-2020. The cost of the contract is \$5,744.99.

Andrea Delling was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Tilly moved to approve renewal of the contract for services of the 3<sup>rd</sup> floor color copier, as presented.

**Second:** Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**The motion carried.**

### **EXAMINATION OF COMPLIANCE DIVISION POLICIES, PROCESSES, AND PROCEDURES**

**19. Update from Compliance Director on His Review of Internal Compliance Policies, Processes, and Procedures**

The Compliance Division Director updated the Commission on his observations regarding that Division's internal policies, processes, and procedures.

Commissioner Tilly noted her continued and increasing concerns over the last fourteen months regarding the policies, procedures, practices, culture and management of the Compliance Division, and how these issues have affected perceptions of the agency as a whole both internally and externally. She expressed pleasure at the initial steps the Compliance Director had taken to finally address this situation,

No action was taken on this agenda item.

**20. Discussion and Consideration of WCC Rule 810:25-7-2**

The Commission discussed and considered Commission Rule 810:25-7-2 (Hearing process and Consent Agreements) and its application. The discussion included a potential rule revision or memo that would serve to better clarify the rule's intent.

Sarah Greenwalt was recognized, reported, and responded to questions of the Commissioners.

**Motion:** Commissioner Russell moved to take no action on this agenda item at this time.

**Second:** Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**The motion carried.**

**21. Possible Executive Session Pursuant to Title 25 O.S., § 307(B)(1) for the Purpose of Discussing Personnel Issues:**

**A. Motion and Vote to enter into Executive Session.**

**Motion:** Commissioner Tilly moved to enter into Executive Session.

**Second:** Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell and Commissioner Tilly.

**The motion carried.**

1. The Commission discussed and evaluated the performance of each of the members in the Compliance Division, to include all investigators and the Compliance Division Director. The Commission may also discuss the management of that Division by the Commission and Executive Director.
2. The Commission evaluated the performance of the Appellate Counsel and discuss potentially restructuring or reorganizing that position within the Commission.

**B. Motion and Vote to Reconvene in Open Session.**

**Motion:** Commissioner Tilly moved to reconvene into Open Session.

**Second:** Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**The motion carried.**

**9. Announcements**

The Commission's next regularly scheduled appeals meeting is on Friday, April 19, 2019. The Commission's next regularly scheduled business meeting is on Thursday, May 16, 2018.

**ADJOURNMENT.....Chairman Mark Liotta**

***Motion:*** Commissioner Tilly moved to adjourn.

***Second:*** Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

***The motion carried. The meeting adjourned.***